

REMARKS

Claims 33, 35-50, 52-55, and 57-73 are pending in the present application.

Reconsideration and allowance of the application and pending claims are respectfully requested.

I. Claims 33, 35-50, 52-55, and 57-73 are Patentable Over Claims 1-37 of U.S. Patent 6,233,327 in View of U.S. Patent 5,343,493 to Karimullah

The Office Action rejects claims 33, 35-50, 52-55 and 57-73 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over U.S. Patent No. 6,233,327 to Petite ("the '327 patent") in view of U.S. Patent No. 5,343,493 to Karimullah ("the '493 patent").

Obviousness-type double patenting is a judicially created doctrine which prevents separate patents from issuing that have claims which are so similar as to render the claims of one patent obvious in view of the other. *Gerber Garment Technology, Inc. v. Lectra Systems, Inc.*, 916 F.2d 683, 16 USPQ2d 1436 (Fed. Cir. 1990). Accordingly, for an obviousness-type double patenting rejection to be proper, the alleged unpatentable claims must be established to be obvious in view of the claims asserted in the applied patent or patent application. Therefore, just as with a rejection under 35 U.S.C. § 103, the U.S. Patent and Trademark Office ("USPTO") has the burden to establish *prima facie* case of obviousness by showing that the combination of references disclose, teach, or suggest each and every element of the alleged unpatentable claims. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

Applicant respectfully submits that this rejection should be withdrawn for any of the following reasons, each of which are separately discussed below:

- (A) the Office Action fails to establish a *prima facie* case of

obviousness because the Office Action has not established the proper suggestion or motivation to combine the references; and

(B) the Office Action fails to establish a *prima facie* case of obviousness because, even assuming a proper suggestion or motivation to combine has been established, the combined teachings do not teach all of the claim limitations.

A. *Prima Facie* Case of Obviousness Not Established: Combination of Proposed References Fails to Teach All Elements

In the present case, Applicant respectfully submits that Applicant's claims 33, 35-50, 52-55, and 57-73 are not obvious for at least the reason that the proposed combination of claims 1-37 of the '327 patent and the teachings of the '493 patent do not teach each and every element of the claimed invention.

Independent Claim 33

The wireless communication systems of independent claim 33, is designed with "an extremely low-power transmitter configured to wirelessly transmit an extremely low-power signal," and a transceiver "configured to establish communication with the central location based on a telephone number included in the low-power signal." The Office Action apparently admits that the claims of the '327 patent "fail to teach transmitting a destination telephone number or destination number for contact with a central station as part of the signal from the transmitter." However, the Office Action alleges: "[The '493 patent] teaches a low power transmitter wherein the transmitter can transmit a signal made up of a codeword wherein the codeword would include a destination identifier" (Office Action, pg. 3).

Unlike the wireless communication systems and methods of independent claim 33 the

system taught in the '493 patent teaches, at most, a transmission of "***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel codeword*** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, ***and a transceiver identification codeword*** identifying the transceiver." (*Emphasis added*, col. 4, lines 52-60). Further, the '493 patent discloses that "the ***processing center 90*** ***determines the destination number*** of the service provider identified by the service request codeword," (*Emphasis added*, col. 8, lines 19-20) wherein "the destination number is essentially the telephone number of the BDS 100 used by the requested service provider" (col. 8, lines 25-28). Thus, the transmitter of the '493 patent does not transmit a "telephone number", but rather, the processing center 90 determines the telephone number based on the service request codeword.

In contrast to the transceiver in the '493 patent, the general purpose transceiver of claim 33 has an open-ended architecture that is readily adaptable for a wide variety of uses and applications (pg. 1, lines 15-17). The claimed transceiver itself has the ability not only to relay the information to the central location, but also to determine the telephone number included in the low power signal and establish communication with the central server based on that telephone number. Thus, a general purpose transceiver has the capability of working with any of a plurality of remote devices by obtaining data needed to contact a particular central station from the information sent by the individual transmitter (pg. 20, line 6-12). For instance, a single transceiver located in the same proximity of transmitters associated with, for example, vending machines and ATM machines will be able to identify the telephone number sent by the transmitter that corresponds with its particular central station, call the telephone number, and

transmit the information to the central location. Thus, the claimed transceivers can be generically manufactured and installed in mass without customized programming, installation, or design for one particular intended use.

Therefore, Applicant asserts that the claim limitation of a transceiver “**configured to establish communication with the central location based on a telephone number included in the low-power signal,**” in claim 33, is not disclosed, taught, or suggested by the proposed combination of claims 1-37 of the ‘327 patent and the teachings of the ‘493 patent as alleged in paragraph 2 of the Office Action.

Accordingly, Applicant respectfully submits that the obviousness-type double patenting rejection be withdrawn and claim 33 should be allowed to issue. Further, because independent claim 33 is believed to be allowable, dependent claims 35-45, which depend from claim 33, are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim.

Independent Claim 46

Claim 46 includes the step of “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, **wherein the information signal is an extremely low-power signal including a telephone number of a central location.**” The Office Action apparently admits that the emphasized text is not claimed in the ‘327 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 46, the system taught in the ‘493 patent teaches, at most, a transmission of “***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel codeword*** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication

system incorporating the cell-sites 30 operates, **and a transceiver identification codeword** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose the step of “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location.”

Accordingly, because neither the claims of the ‘327 patent or the disclosure of the ‘493 patent teach “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location” as recited in claim 46, Applicant respectfully submits that the obviousness-type double patenting rejection be withdrawn and claim 46 should be allowed to issue. Further, because independent claim 46 is believed to be allowable, dependent claims 47-50 and 52-54, which depend from claim 46, are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim.

Independent Claim 55

Claim 55 includes a “means for wirelessly **transmitting an extremely low-power signal comprising the information, the information including a telephone number.**” The Office Action apparently admits that the emphasized text is not claimed in the ‘327 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 55, the system taught in the ‘493 patent teaches, at most, a transmission of “**a service request codeword** indicating a request for service from at least one of the service providers 110, **a control channel codeword** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication

system incorporating the cell-sites 30 operates, ***and a transceiver identification codeword*** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose, teach, or suggest a “means for wirelessly **transmitting an extremely low-power signal comprising the information, the information including a telephone number.**”

Accordingly, because neither the claims of the ‘327 patent or the disclosure of the ‘493 patent teach a “means for wirelessly transmitting an extremely low-power signal comprising the information, the information including a telephone number,” Applicant respectfully submits that the obviousness-type double patenting rejection be withdrawn and claim 55 should be allowed to issue. Further, because independent claim 55 is believed to be allowable, dependent claims 57-65, which depend from claim 55, are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim.

Independent Claim 66

Claim 66 includes a “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the **low-power signal comprising encoded information and a telephone number.**” The Office Action apparently admits that the emphasized text is not claimed in the ‘327 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 66, the system taught in the ‘493 patent teaches, at most, a transmission of “***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel codeword*** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, ***and a transceiver identification codeword*** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does

not disclose, teach, or suggest a “wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number.”

Accordingly, because neither the claims of the ‘327 patent or the disclosure of the ‘493 patent teach a “wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” Applicant respectfully submits that the obviousness-type double patenting rejection be withdrawn and claim 66 should be allowed to issue. Further, because independent claim 66 is believed to be allowable, dependent claims 67-71, which depend from claim 66, are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim.

Independent Claim 72

Claim 72 includes the steps of “wirelessly transmitting an information signal from the transmitter to a remotely located transceiver,” and further, “placing a telephone call from the transceiver to the central location, the central location being identified by **a phone number contained within the information signal.**” The Office Action apparently admits that the emphasized text is not claimed in the ‘327 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 72, the system taught in the ‘493 patent teaches, at most, a transmission of “***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel codeword*** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, ***and a transceiver identification codeword***

identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose, teach, or suggest a **“a phone number contained within the information signal.”**

Accordingly, because neither the claims of the ‘327 patent or the disclosure of the ‘493 patent teach **“a phone number contained within the information signal,”** Applicant respectfully submits that the obviousness-type double patenting rejection be withdrawn and claim 72 should be allowed to issue.

Independent Claim 73

Claim 73 includes a “means for receiving an extremely low-power electromagnetic signal, the **electromagnetic signal including an encoded message code and a telephone number.**” The Office Action apparently admits that the emphasized text is not claimed in the ‘327 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 73, the system taught in the ‘493 patent teaches, at most, a transmission of **“a service request codeword** indicating a request for service from at least one of the service providers 110, **a control channel codeword** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, **and a transceiver identification codeword** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose, teach, or suggest a **“electromagnetic signal including an encoded message code and a telephone number.”**

Accordingly, because neither the claims of the ‘327 patent or the disclosure of the ‘493 patent teach a **“electromagnetic signal including an encoded message code and a telephone number,”** Applicant respectfully submits that the obviousness-type double patenting rejection be withdrawn and claim 73 should be allowed to issue.

Dependent Claims 35-45, 47-50, 52-54, and 57-65, 67-71

Because independent claims 33, 46, 55, and 66 are believed to be allowable, dependent claims 35-45, 47-50, 52-54, 57-65, and 67-71, which depend from claims 33, 46, 55, and 66 are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim. Accordingly, Applicant respectfully submits that the rejection to claims 35-45, 47-50, 52-54, 57-65, and 67-71 should be withdrawn and the claims allowed to issue.

B. *Prima Facie* Case of Obviousness Not Established: No Suggestion or Motivation to Combine References as Suggested

The rejection of claims 33, 35-50, 52-55, and 57-73 should be withdrawn for the additional reason that the Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Applicant respectfully submits that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the claims of the '327 patent or the disclosure of the '493 patent.

Applicant respectfully submits that the purported motivation or suggestion provided by the Office Action ("making it possible to contact a unique service provider based on a transmitted telephone number in times of distress and so forth") is a classic example of impermissible hindsight reasoning based solely on Applicant's disclosure.

First, as apparently admitted in the Office Action, the '327 patent does not relate to a system that can "contact a unique service provider based on a transmitted telephone number." Instead, the Office Action alleges that the '493 patent teaches this concept. However, the system taught in the '493 patent teaches, at most, a transmission of "***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel***

codeword identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose, teach, or suggest the concept underlying the motivation to combine as formulated by the Office Action (“making it possible to contact a unique service provider based on a transmitted telephone number in times of distress and so forth”). Thus, since neither reference includes this concept, and the concept would not be obvious to one of ordinary skill in the art, it appears that the Applicant’s disclosure provides the impetus for the alleged obviousness. Therefore, Applicant is loathe to believe that improper hindsight reconstruction was not used in rejecting claims 33, 35-50, 52-55, and 57-73.

Therefore, Applicant respectfully submits that the Office Action does not establish a proper motivation or suggestion to combine the ‘327 patent and the ‘493 patent such as to render obvious independent claims 33, 35-50, 52-55, and 57-73.

II. Claims 33, 36-41, 46-50, 53-55, and 58-73 are Patentable Over U.S. Patent 5,714,931 to Petite *et al.* in View of the ‘493 Patent

Claims 33, 36-41, 46-50, 53-55, and 58-73 are rejected under 35 U.S.C. 103(a) as allegedly being obvious over U.S. Patent 5,714,931, to Petite, *et al.* (“the ‘931 patent”) in view of the ‘493 patent.

In the present case, Applicant respectfully submits that Applicant’s claims 33, 36-41, 46-50, 53-55, and 58-73 are not obvious for at least the reason that the proposed combination of the ‘931 patent and the ‘493 patent do not teach each and every element of the claimed invention.

Independent Claim 33

The wireless communication systems of independent claim 33, is designed with “an extremely low-power transmitter configured to wirelessly transmit an extremely low-power signal,” and a transceiver “configured to establish communication with the central location based on a telephone number included in the low-power signal.” As admitted in the Office Action, the claims of the ‘327 patent “fail to teach transmitting a destination telephone number or destination number for contact with a central station as part of the signal from the transmitter.” However, the Office Action alleges: “[The ‘493 patent] teaches a low power transmitter wherein the transmitter can transmit a signal made up of a codeword wherein the codeword would include a destination identifier” (Office Action, pg. 3).

Unlike the wireless communication systems and methods of independent claim 33 the system taught in the ‘493 patent teaches, at most, a transmission of “***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel codeword*** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, ***and a transceiver identification codeword*** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). Further, the ‘493 patent discloses that “the ***processing center 90*** ***determines the destination number*** of the service provider identified by the service request codeword,” (*Emphasis added*, col. 8, lines 19-20) wherein “the destination number is essentially the telephone number of the BDS 100 used by the requested service provider” (col. 8, lines 25-28). Thus, the transmitter of the ‘493 patent does not transmit a “telephone number”, but rather, the processing center 90 determines the telephone number based on the service request codeword.

In contrast to the transceiver in the '493 patent, the general purpose transceiver of claim 33 has an open-ended architecture that is readily adaptable for a wide variety of uses and applications (pg. 1, line 15-17). The claimed transceiver itself has the ability not only to relay the information to the central location, but also to determine the telephone number included in the low power signal and establish communication with the central server based on that telephone number. Thus, a general purpose transceiver has the capability of working with any of a plurality of remote devices by obtaining data needed to contact a particular central station from the information sent by the individual transmitter (pg. 20, line 6-12). For instance, a single transceiver located in the same proximity of transmitters associated with, for example, vending machines and ATM machines will be able to identify the telephone number sent by the transmitter that corresponds with its particular central station, call the telephone number, and transmit the information to the central location. Thus, the claimed transceivers can be generically manufactured and installed in mass without customized programming, installation, or design for one particular intended use.

Therefore, Applicant asserts that the claim limitation of a transceiver **“configured to establish communication with the central location based on a telephone number included in the low-power signal,”** in claim 33, is not disclosed, taught, or suggested by the proposed combination of the '931 patent and the '493 patent as alleged in paragraph 4 of the Office Action.

Accordingly, Applicant respectfully submits that §103 rejection be withdrawn and claim 33 should be allowed to issue. Further, because independent claim 33 is believed to be allowable, dependent claims 35-45, which depend from claim 33, are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim.

Independent Claim 46

Claim 46 includes the step of “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, **wherein the information signal is an extremely low-power signal including a telephone number of a central location.**” The Office Action apparently admits that the emphasized text is not disclosed in the ‘931 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 46, the system taught in the ‘493 patent teaches, at most, a transmission of “***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel codeword*** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, ***and a transceiver identification codeword*** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose the step of “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location.”

Accordingly, because neither the ‘931 patent nor the disclosure of the ‘493 patent, separately or in combination, teach the step of “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location,” Applicant respectfully submits that §103 rejection be withdrawn and claim 46 should be allowed to issue. Further, because independent claim 46 is believed to be allowable, dependent claims 47-50 and 52-54, which depend from claim 46, are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim.

Independent Claim 55

Claim 55 includes a “means for wirelessly **transmitting an extremely low-power signal comprising the information, the information including a telephone number.**” The Office Action apparently admits that the emphasized text is not disclosed in the ‘931 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 55, the system taught in the ‘493 patent teaches, at most, a transmission of “*a service request codeword* indicating a request for service from at least one of the service providers 110, *a control channel codeword* identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose, teach, or suggest a “means for wirelessly **transmitting an extremely low-power signal comprising the information, the information including a telephone number.**”

Accordingly, because neither the ‘931 patent nor the disclosure of the ‘493 patent, separately or in combination, teach a “means for wirelessly **transmitting an extremely low-power signal comprising the information, the information including a telephone number,**” Applicant respectfully submits that §103 rejection be withdrawn and claim 55 should be allowed to issue. Further, because independent claim 55 is believed to be allowable, dependent claims 57-65, which depend from claim 55, are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim.

Independent Claim 66

Claim 66 includes a “a wireless receiver configured to wirelessly receive a low-power

signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the **low-power signal comprising encoded information and a telephone number.**” The Office Action apparently admits that the emphasized text is not disclosed in the ‘931 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 66, the system taught in the ‘493 patent teaches, at most, a transmission of “*a service request codeword* indicating a request for service from at least one of the service providers 110, *a control channel codeword* identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose, teach, or suggest a “wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number.”

Accordingly, because neither the ‘931 patent nor the disclosure of the ‘493 patent, separately or in combination, teach a “wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” Applicant respectfully submits that §103 rejection be withdrawn and claim 66 should be allowed to issue. Further, because independent claim 66 is believed to be allowable, dependent claims 67-71, which depend from claim 55, are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim.

Independent Claim 72

Claim 72 includes the steps of “wirelessly transmitting an information signal from the

transmitter to a remotely located transceiver,” and further, “placing a telephone call from the transceiver to the central location, the central location being identified by **a phone number contained within the information signal.**” The Office Action apparently admits that the emphasized text is not disclosed in the ‘931 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 72, the system taught in the ‘493 patent teaches, at most, a transmission of “***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel codeword*** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, ***and a transceiver identification codeword*** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose, teach, or suggest a “**a phone number contained within the information signal.**”

Accordingly, because neither the ‘931 patent nor the disclosure of the ‘493 patent, separately or in combination, teach “**a phone number contained within the information signal.**” Applicant respectfully submits that §103 rejection be withdrawn and claim 72 should be allowed to issue.

Independent Claim 73

Claim 73 includes a “means for receiving an extremely low-power electromagnetic signal, the **electromagnetic signal including an encoded message code and a telephone number.**” The Office Action apparently admits that the emphasized text is not disclosed in the ‘931 patent, but alleges that the feature is disclosed by the ‘493 patent.

Unlike claim 73, the system taught in the ‘493 patent teaches, at most, a transmission of “***a service request codeword*** indicating a request for service from at least one of the service

providers 110, **a control channel codeword** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, **and a transceiver identification codeword** identifying the transceiver.” (*Emphasis added*, col. 4, lines 52-60). The ‘493 patent simply does not disclose, teach, or suggest a “**electromagnetic signal including an encoded message code and a telephone number.**”

Accordingly, because neither the ‘931 patent nor the disclosure of the ‘493 patent, separately or in combination, teach an “**electromagnetic signal including an encoded message code and a telephone number,**” Applicant respectfully submits that §103 rejection be withdrawn and claim 73 should be allowed to issue.

III. Claims 35, 42-45, and 52, and 57 are Patentable Over the ‘931 Patent in View of the ‘493 Patent, and Further in View of U.S. Patent 6,067,030 to Burnett

Claims 35, 42-45, and 52, and 57 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over the ‘931 patent, in view of the ‘493 patent, and further in view of U.S. patent 6,067,030 to Burnett (“the ‘030 patent”). Without acquiescing to this argument, Applicant submits that this rejection is rendered moot because each of claims 35, 42-45, and 52, and 57 depend from claims which Applicant believes to be allowable.

IV. Claims 33, 36-41, 46-50, 53-55, 58-66, and 69-73 are Patentable Over U.S. Patent 5,748,104 to Argyroudis *et al.* in View of the ‘493 Patent or U.S. Patent 5,994,892 to Turino or U.S. Patent 5,761,083 to Brown, Jr. *et al.*

Claims 33, 36-41, 46-50, 53-55, 58-66, and 69-73 are rejected under 35 U.S.C. 103(a) as allegedly being obvious over U.S. Patent 5,748,104 to Argyroudis *et al.* (“the ‘104 patent”) in view of the ‘493 Patent or U.S. Patent 5,994,892 to Turino (“the ‘892 patent”) or U.S. Patent

5,761,083 to Brown, Jr. *et. al* (the '083 patent). Specifically, the Office Action argues that the '104 patent teaches all of the claimed features of independent claims 33, 46, 55, 66, 72, and 73 except "being able to receive as part of the wireless information transmitted, a destination location identifier such as a destination telephone number." Furthermore, the Office Action argues that this missing element is supplied by each of the '493 patent, the '892 patent, or the '083 patent, and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of the '104 patent to include the features that are allegedly taught by each of the '493, '892, and '083 patents.

Applicant respectfully submits that this rejection should be withdrawn for any of the following reasons, each of which are separately discussed below:

(A) the Office Action fails to establish a *prima facie* case of obviousness because the Office Action has not established the proper suggestion or motivation to combine the references; and

(B) the Office Action fails to establish a *prima facie* case of obviousness because, even assuming a proper suggestion or motivation to combine has been established, the combined teachings do not teach all of the claim limitations.

A. *Prima Facie* Case of Obviousness Not Established: Combination of Proposed References Fails to Teach All Elements

The Office Action fails to establish a *prima facie* case of obviousness because the proposed combination of the '104 patent and the '493, '892, and '083 patents do not teach all of the claim limitations of claims 33, 36-41, 46-50, 53-55, 58-66, and 69-73. MPEP §2143.03.

Before analyzing each claim separately, it is helpful to summarize the relevant aspects of

each patent cited in the §103 rejection and the systems and methods of claims 33, 36-41, 46-50, 53-55, 58-66, and 69-73.

The '104 Patent to Argyroudis

The '104 patent discloses a wireless remote telemetry system used specifically for real-time reading and control of remote devices. Specifically, the disclosure describes the remote devices as utility meters located in customer sites. These systems do not include “general purpose” transceivers “configured to establish communication with the central location based on a telephone number included in the low-power signal” (as recited in claim 33, for example), but instead include transceivers designed to work specifically with a utility meter reading system and central station (col. 5, lines 11-58). The information in the signal is not used to determine the destination of data sent from metering units 102. The transceiver in the HBU merely receives the data and then relays the information to the central controller. The '104 patent does contemplate displaying the data to a user through HBU 122, however this is still merely displaying, rather than actively utilizing, information contained within the signal for purposes of determining a destination (col. 5, line 60 – col. 6 line 9). Thus, not only does the '104 patent not disclose the emphasized language, there is no advantage to include a telephone number in the low power signal or logic configured to identify a telephone number included in the low-power signal such that the transceiver establishes communication with the central location via the telephone number in the meter reading system of the '104 patent.

The '493 Patent to Karimullah

The '493 patent describes a personal assistance system for use in a cellular communications system. The transmitter in the '493 patent emits a service request, such as a

request for assistance, which is received by a cellular tower and routed to a central processing center (col. 4, lines 42-64). While the service request buttons in the '493 patent may correspond to a telephone number (e.g. 911), the signal sent from transceiver 20 does not include a telephone number with which the transceiver in the terminal unit may establish communication with the central location (col. 4 lines 3-14, and col. 4, lines 50-60). Instead, the spread spectrum burst of pulses sends the central processing center 90 a burst including "a preamble, timing refinement overhead, and data." The data includes "a service request codeword ... , a control channel codeword ... and a transceiver identification codeword" (col. 4 lines 3-14, and col. 4, lines 50-60).

The '892 Patent to Turino

The '892 patent describes an automatic utility meter provided for collecting, calculating, storing and displaying data correlative of consumption of utility commodities such as electric power, gas, water and the like ('892 abstract). The automatic utility meter includes communication means to allow bi-directional communication of data to and from a remote computer ('892 abstract). This communication means is described as a phoneline (*see* FIG. 12).

The Office Action alleges that the '892 patent teaches "a communication system wherein a utility means can *transmit information* including a telephone number to initiate a call to a central monitoring station." (*Emphasis added*, Office Action, pg. 8). FIG. 12 depicts that a utility meter incorporates a modem (designated as "U11") and a microcontroller (designated as "U1"). The '892 patent describes that "the microcontroller commands the modem to initiate calls to a central office at programmed intervals." (col. 8, lines 17-19). Further, "[t]he modem accepts digital data retrieved from memory by the microcontroller and transferred to the modem" (col. 8, lines 19-21), wherein the "data consists of an identification number (ID#) unique to the residential customer, the

central office phone number, and data representing the power consumption.” (col.8, lines 21-23).

The ‘083 Patent to Brown

The ‘083 patent discloses an energy management and home automation system including one or more control units in each managed facility and one or more energy consuming devices attached to each controller (‘083 abstract). The control units respond to digital paging signals from a central command center which establish a schedule of events affecting the operation of each device and the controller schedules each device to be operated pursuant to the programmed schedule (‘083 abstract).

The control units contain a telephone interface 36 and 48 which “permit communications between the command center computers 22 and 24 and each control unit 26 and 28 by using the public telephone network.” (col. 6, lines 51-54). “To better use this telephone communication ability, an auto-dialing device may be included in each control unit 26 and 28.” (col. 6, lines 54-56). “With this additional hardware, each control unit 26 and 28 may be directed to perform certain tasks and report the results to a designated telephone number.” (col. 6, lines 56-59). Further, “paging signals maybe used to address many [control] units at one time, and then each can call the designated number until a report is made.” (col. 6, lines 60-62).

Summary of the Claimed Systems and Methods

In contrast to the transceiver in the ‘401, ‘493, ‘892, and ‘083 patents, the general purpose transceiver claimed has an open-ended architecture that is readily adaptable for a wide variety of uses and applications (pg. 1, line 15-17). The claimed transceiver itself has the ability not only to relay the information to the central location, but also to determine the telephone number included in the low power signal and establish communication with the central server based on that

telephone number. Thus, a general purpose transceiver has the capability of working with any of a plurality of remote devices by obtaining data needed to contact a particular central station from the information sent by the individual transmitter (pg. 20, line 6-12). For instance, a single transceiver located in the same proximity of transmitters associated with, for example, vending machines and ATM machines will be able to identify the telephone number sent by the transmitter that corresponds with its particular central station, call the telephone number, and transmit the information to the central location. Thus, the claimed transceivers can be generically manufactured and installed in mass without customized programming, installation, or design for one particular intended use.

1. Independent Claim 33

The Office Action alleges that the '401 patent "teaches all the claimed limitation [sic]," but apparently admits that the '401 patent is missing the limitation of "being able to receive as part of the wireless information transmitted, a destination location identifier such as a destination telephone number." Thus, the '401 patent does not teach, suggest, or disclose the feature of a transceiver "configured to establish communication with the central location based on a telephone number included in the low-power signal" as recited in claim 33.

However, the Office Action apparently alleges that any one of the '493, '892, and '083 patents disclose the features missing from the '401 patent. Applicant submits that the '401, '493, '892, and '083 patents, separately or in combination, fail to teach all the features of claim 33.

For example, the wireless communication system of independent claim 33, is designed with **"an extremely low-power transmitter configured to wirelessly transmit an extremely low-power signal,"** and a **"transceiver ... configured to establish communication with the central location based on a telephone number included in the low-power signal."**

First, as to the '493 patent, unlike the wireless communication systems and methods of independent claim 33, the system taught in the '493 patent teaches, at most, a transmission of "*a service request codeword*" indicating a request for service from at least one of the service providers 110, *a control channel codeword* identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, *and a transceiver identification codeword* identifying the transceiver." (*Emphasis added*, col. 4, lines 52-60). Further, the '493 patent discloses that "the *processing center 90 determines the destination number* of the service provider identified by the service request codeword," (*Emphasis added*, col. 8, lines 19-20) wherein "the destination number is essentially the telephone number of the BDS 100 used by the requested service provider" (col. 8, lines 25-28). Thus, the transmitter of the '493 patent does not transmit "a telephone number," but rather, the processing center 90 determines the telephone number based on a transmitted codeword. Furthermore, because a telephone number is not included in the low-power signal, the '493 patent also can not teach a "transceiver ... configured to establish communication with the central location **based on a telephone number included in the low-power signal**" as recited in claim 33.

Next, unlike the wireless system for communicating information of claim 33, the '892 patent discloses, at most, a utility meter having integrated circuitry wherein "the microcontroller commands the modem to initiate calls to a central office at programmed intervals." (col. 8, lines 17-19). The modem "accepts digital data retrieved from memory by the microcontroller and transferred to the modem" (col. 8, lines 19-21), wherein the "data consists of an identification number (ID#) unique to the residential customer, the central office phone number, and data representing the power consumption." (col.8, lines 21-23). Thus, the '892 patent simply

discloses the wired communication needed between a microcontroller and a modem in a single utility meter to operate an integrated modem. The system does not “wirelessly transmit” the telephone number. The system merely describes the circuitry commanding a modem to initiate calls. This system describes is nothing more than the circuitry used within the nearly any telephone-line based modem. This wired system in which the microcontroller “commands the modem” is entirely different from the claimed system configured to “wirelessly transmit an extremely low-power signal” and a transceiver “configured to establish communication with the central location based on a telephone number included in the low-power signal” as recited in claim 33.

Finally, unlike the system of independent claim 33, the ‘083 patent discloses, at most, that “each control unit 26 and 28 may be directed to perform certain tasks and report the results to a designated telephone number,” (col. 6, lines 56-59) or that “paging signals maybe used to address many [control] units at one time, and then each can call the designated number until a report is made.” (col. 6, lines 60-62). However, despite that the control unit apparently “can call the designated number” the ‘083 patent does not disclose, teach, or suggest that the designated number is “a telephone number included in the low-power signal” as recited in claim 33. The ‘083 patent simply does not disclose where the “designated telephone number” originates from. In fact, FIGs. 5-14 of the ‘083 patent describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe a telephone number in the data messages. Thus, the ‘083 patent does not disclose “an extremely low-power transmitter configured to wirelessly transmit an extremely low-power signal,” and a transceiver “configured to establish communication with the central location based on a telephone number included in the low-power

signal.”

Therefore, Applicant asserts that the claim limitation of a transceiver “**configured to establish communication with the central location based on a telephone number included in the low-power signal,**” in claim 33, is not disclosed, taught, or suggested by the proposed combination of the ‘401, ‘493, ‘892, and ‘083 patents as alleged in paragraph 6 of the Office Action. Accordingly, Applicant respectfully submits that the rejection to claim 33 should be withdrawn.

2. Independent Claim 46

The Office Action rejects claim 46 on the same basis as claim 33 allegedly “because the claimed apparatus would perform the method steps” of claim 46.

Applicant submits that the ‘401, ‘493, ‘892, and ‘083 patents, separately or in combination, fail teach all the features as recited in claim 33. For example, claim 46 includes the step of “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location,” and “placing a telephone call from circuitry couple to the transceiver to the central location identified by the telephone number.”

As an initial matter, the ‘401 patent does not disclose, and the Office Action does not even allege the patent discloses, “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location,” and “placing a telephone call from circuitry couple to the transceiver to the central location identified by the telephone number.”

Second, the alleged transmitter of the ‘493 patent does not transmit “a telephone

number,” but rather, the processing center 90 determines the telephone number based on a transmitted codeword. Furthermore, because a telephone number is not included in the low-power signal, the ‘493 patent also can not teach “placing a telephone call from circuitry couple to the transceiver to the central location identified by the telephone number” as recited in claim 46.

Third, the ‘892 patent merely describes the circuitry commanding a modem to initiate calls. The disclosed system is nothing more than the circuitry used within the nearly any telephone-line based modem. This wired system in which the microcontroller “commands the modem” is entirely different from the claimed method of “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location,” and “placing a telephone call from circuitry couple to the transceiver to the central location identified by the telephone number.”

Finally, the ‘083 patent also does not disclose the step of “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location,” and “placing a telephone call from circuitry couple to the transceiver to the central location identified by the telephone number” as recited in claim 46. FIGs. 5-14 of the ‘083 patent describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe a telephone number in the data messages. Thus, the ‘083 patent does not disclose “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location,” and “placing a telephone call from

circuitry couple to the transceiver to the central location identified by the telephone number.”

Therefore, Applicant asserts that the claim limitations disclosing “wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal including a telephone number of a central location,” and “placing a telephone call from circuitry couple to the transceiver to the central location identified by the telephone number,” of claim 46, is not disclosed, taught, or suggested by the proposed combination of the ‘401, ‘493, ‘892, and ‘083 patents as alleged in paragraph 6 of the Office Action. Accordingly, Applicant respectfully submits that the rejection to claim 46 should be withdrawn.

3. Independent Claim 55

The Office Action rejects claim 55 on the same basis as claim 33 allegedly “because the means for transmitting simply reads on a transmitter as taught by Argyroudis, a taught which includes a receiver and a transmitter connected to a telephone interface for final transmission to a monitoring station.”

Applicant submits that the ‘401, ‘493, ‘892, and ‘083 patents, separately or in combination, fail teach all the features as recited in claim 55. For example, claim 55 includes a “means for wirelessly transmitting an extremely low-power signal comprising the information, the information including a telephone number,” and a “means for telephonically transmitting the information to the central location identified by the telephone number.”

As an initial matter, the ‘401 patent does not disclose, and the Office Action does not even allege the patent discloses, a “means for wirelessly transmitting an extremely low-power signal comprising the information, the information including a telephone number,” and a “means for telephonically transmitting the information to the central location identified by the telephone

number” as recited in claim 55.

Second, the alleged transmitter of the ‘493 patent does not transmit “a telephone number,” but rather, the processing center 90 determines the telephone number based on a transmitted codeword. Furthermore, because a telephone number is not included in the low-power signal, the ‘493 patent also can not teach a “telephonically transmitting the information to the central location identified by the telephone number” as recited in claim 55.

Third, the ‘892 patent merely describes the circuitry commanding a modem to initiate calls. This system describes is nothing more than the circuitry used within the nearly any telephone-line based modem. This wired system in which the microcontroller “commands the modem” is entirely different from the claimed system including a “means for wirelessly transmitting an extremely low-power signal comprising the information, the information including a telephone number,” or “means for telephonically transmitting the information to the central location identified by the telephone number” as recited in claim 55.

Finally, the ‘083 patent also does not disclose a “means for wirelessly transmitting an extremely low-power signal comprising the information, the information including a telephone number,” and a “means for telephonically transmitting the information to the central location identified by the telephone number” as recited in claim 55. FIGs. 5-14 of the ‘083 patent describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe “a telephone number” in the data messages. Thus, the ‘083 patent does not disclose a “means for wirelessly transmitting an extremely low-power signal comprising the information, the information including a telephone number,” or a “means for telephonically transmitting the information to the central location identified by the telephone number” as recited

in claim 55.

Therefore, Applicant asserts that the claim limitations disclosing a “means for wirelessly transmitting an extremely low-power signal comprising the information, the information including a telephone number,” and a “means for telephonically transmitting the information to the central location identified by the telephone number” of claim 55, is not disclosed, taught, or suggested by the proposed combination of the ‘401, ‘493, ‘892, and ‘083 patents as alleged in paragraph 6 of the Office Action. Accordingly, Applicant respectfully submits that the rejection to claim 55 should be withdrawn.

4. Independent Claim 66

The Office Action rejects claim 66 on the same basis as claim 33 with the further allegation that the ‘401 patent discloses that the “home base unit ... includes an inherent controller” and the “HBU could have display functions wherein information can be displayed.”

Applicant submits that the ‘401, ‘493, ‘892, and ‘083 patents, separately or in combination, fail teach all the features as recited in claim 66. For example, claim 66 includes a “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number” and “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number.”

As an initial matter, the ‘401 patent does not disclose, and the Office Action does not even allege the patent discloses, “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number” and “a telephonic

transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number” as recited in claim 66.

Second, the alleged transmitter of the ‘493 patent does not transmit “a telephone number,” but rather, the processing center 90 determines the telephone number based on a transmitted codeword. Furthermore, because a telephone number is not included in the low-power signal, the ‘493 patent also cannot teach “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number” as recited in claim 66.

Third, the ‘892 patent merely describes the circuitry commanding a modem to initiate calls. This system describes is nothing more than the circuitry used within the nearly any telephone-line based modem. This wired system in which the microcontroller “commands the modem” is entirely different from the claimed system including “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” or “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number” as recited in claim 66.

Finally, the ‘083 patent also does not disclose “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number” and “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number” as recited in claim 66. FIGs. 5-14 of the ‘083 patent describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine

diagrams, or the associated description, describe “a telephone number” in the data messages. Thus, the ‘083 patent does not disclose “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” or “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number” as recited in claim 66.

Therefore, Applicant asserts that the claim limitations disclosing “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” or “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number” in claim 66, are not disclosed, taught, or suggested by the proposed combination of the ‘401, ‘493, ‘892, and ‘083 patents as alleged in paragraph 6 of the Office Action. Accordingly, Applicant respectfully submits that the rejection to claim 66 should be withdrawn.

5. Independent Claim 72

The Office Action rejects claim 72 on the same basis as claim 33 with the further “because the claimed apparatus would perform the method steps” of claim 46.

Applicant submits that the ‘401, ‘493, ‘892, and ‘083 patents, separately or in combination, fail teach all the features as recited in claim 72. For example, claim 72 includes the steps of “wirelessly transmitting an information signal from the transmitter to a remotely located transceiver,” and further, “placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal.”

As an initial matter, the ‘401 patent does not disclose, and the Office Action does not

even allege the patent discloses, “wirelessly transmitting an information signal from the transmitter to a remotely located transceiver,” and further, “placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal” as recited in claim 72.

Second, the alleged transmitter of the ‘493 patent does not transmit “a telephone number,” but rather, the processing center 90 determines the telephone number based on a transmitted codeword. Furthermore, because a telephone number is not included in the low-power signal, the ‘493 patent also cannot, “placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal” as recited in claim 72.

Third, the ‘892 patent merely describes the circuitry commanding a modem to initiate calls. This system describes is nothing more than the circuitry used within the nearly any telephone-line based modem. This wired system in which the microcontroller “commands the modem” is entirely different from the claimed method of “placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal” as recited in claim 72.

Finally, the ‘083 patent does not disclose the steps of “wirelessly transmitting an information signal from the transmitter to a remotely located transceiver,” and further, “placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal” as recited in claim 72. FIGs. 5-14 of the ‘083 patent describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe “a telephone number” in the data messages. Thus, the ‘083

patent does not disclose “wirelessly transmitting an information signal from the transmitter to a remotely located transceiver,” and further, “placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal” as recited in claim 72.

Therefore, Applicant asserts that the claim limitations disclosing “a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising encoded information and a telephone number,” or “a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number” in claim 72, are not disclosed, taught, or suggested by the proposed combination of the ‘401, ‘493, ‘892, and ‘083 patents as alleged in paragraph 6 of the Office Action. Accordingly, Applicant respectfully submits that the rejection to claim 72 should be withdrawn.

6. Independent Claim 73

The Office Action rejects claim 73 on the same basis as claim 33 with the further allegation that the ‘401 patent “teaches a transceiver which would have means for receiving and a means for transmitting by definition of a transceiver and an inherent controller for controlling the Home base unit.”

Applicant submits that the ‘401, ‘493, ‘892, and ‘083 patents, separately or in combination, fail teach all the features as recited in claim 73. For example, claim 73 includes a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code and a telephone number” and a “means for transmitting a formatted electric signal over a phone line to a predetermined destination identified by the telephone number.”

As an initial matter, the '401 patent does not disclose, and the Office Action does not even allege the patent discloses, a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code and a telephone number” and a “means for transmitting a formatted electric signal over a phone line to a predetermined destination identified by the telephone number” as recited in claim 73.

Second, the alleged transmitter of the '493 patent does not transmit “a telephone number,” but rather, the processing center 90 determines the telephone number based on a transmitted codeword. Furthermore, because a telephone number is not included in the low-power signal, the '493 patent also cannot include a “means for transmitting a formatted electric signal over a phone line to a predetermined destination identified by the telephone number” as recited in claim 73.

Third, the '892 patent merely describes the circuitry commanding a modem to initiate calls. This system describes is nothing more than the circuitry used within the nearly any telephone-line based modem. This wired system in which the microcontroller “commands the modem” is entirely different from the claimed system including a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code and a telephone number” and a “means for transmitting a formatted electric signal over a phone line to a predetermined destination identified by the telephone number” as recited in claim 73.

Finally, the '082 patent also does not include a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code and a telephone number” and a “means for transmitting a formatted electric signal over a phone line to a predetermined destination identified by the telephone number” as required by claim 73.

FIGs. 5-14 of the '083 patent describe, in great detail, the content and format of the paged data

messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe “a telephone number” in the data messages. Thus, the ‘083 patent does not disclose “the electromagnetic signal including an encoded message code and a telephone number” or a “means for transmitting a formatted electric signal over a phone line to a predetermined destination identified by the telephone number” as recited in claim 73.

Therefore, Applicant asserts that the claim limitations disclosing “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code and a telephone number” and a “means for transmitting a formatted electric signal over a phone line to a predetermined destination identified by the telephone number” in claim 73, are not disclosed, taught, or suggested by the proposed combination of the ‘401, ‘493, ‘892, and ‘083 patents as alleged in paragraph 6 of the Office Action. Accordingly, Applicant respectfully submits that the rejection to claim 72 should be withdrawn.

7. Dependent Claims 36-41, 47-50, 53-54, 58-65, and 69-71

Because independent claims 33, 46, 55, and 66 are believed to be allowable, dependent claims 36-41, 47-50, 53-54, 58-65, and 69-71, which depend from claims 33, 46, 55, and 66, are allowable as a matter of law for at least the reason that they contain all the features and elements of their corresponding independent claim. Accordingly, Applicant respectfully submits that the rejection to claims 36-41, 47-50, 53-54, 58-65, and 69-71 should be withdrawn and the claims allowed to issue.

B. *Prima Facie* Case of Obviousness Not Established: No Suggestion or Motivation to Combine References as Suggested

The rejection of claims 33, 36-41, 46-50, 53-55, 58-66, and 69-73 should be withdrawn

for the additional reason that the Office Action has failed to establish a *prima facie* case of obviousness. Specifically, Applicant respectfully submits that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the '401 patent by incorporating the teachings of the '493, '892, or '083 patents.

Applicant respectfully submits that the purported motivation or suggestion provided by the Office Action (making it possible to contact a service provider for a service request, or to inform the service provider about pertinent information by using the destination identifier including a telephone number) is a classic example of impermissible hindsight reasoning based solely on Applicant's disclosure.

First, as apparently admitted in the Office Action, the '401 patent does not relate to a system that can "inform the service provider about pertinent information by using the destination identifier including a telephone number." Instead, the Office Action alleges that the '493, '892, or '083 patents teaches this concept.

However, the system taught in the '493 patent teaches, at most, a transmission of "***a service request codeword*** indicating a request for service from at least one of the service providers 110, ***a control channel codeword*** identifying a control channel of, preferably, the best positioned cell-site in the cellular communication band over which the cellular communication system incorporating the cell-sites 30 operates, ***and a transceiver identification codeword*** identifying the transceiver." (*Emphasis added*, col. 4, lines 52-60). The '493 patent simply does not disclose the concept of a "destination identifier including a telephone number."

Second, the alleged transmitter of the '493 patent does not transmit "a telephone number," but rather, the processing center 90 determines the telephone number based on a

transmitted codeword.

Third, the '892 patent merely describes the circuitry commanding a modem to initiate calls. This wired system in which the microcontroller "commands the modem" is entirely different from the claimed system used to transmit information including a phone number to a transceiver.

Finally, FIGs. 5-14 of the '083 patent describe, in great detail, the content and format of the paged data messages from the command center to the pager receiver in the control unit. None of the nine diagrams, or the associated description, describe "a telephone number" in the data messages.

The '493 patent simply does not disclose, teach, or suggest the concept underlying the motivation to combine as formulated by the Office Action ("making it possible to contact a service provider for a service request, or to inform the service provider about pertinent information by using the destination identifier including a telephone number"). Thus, since none of the four combined references include this concept, and the concept would not be obvious to one of ordinary skill in the art, it appears that the Applicant's disclosure provides the impetus for the alleged obviousness. Therefore, Applicant is loathe to believe that improper hindsight reconstruction was not used in rejecting claims 33, 36-41, 46-50, 53-55, 58-66, and 69-73.

Therefore, Applicant respectfully submits that the Office Action does not establish a proper motivation or suggestion to combine the '401 patent with the teachings of the '493, '892, or '083 patents such as to render obvious claims 33, 36-41, 46-50, 53-55, 58-66, and 69-73.

CONCLUSION

Applicant respectfully submits that claims 33, 35-45, 46-50, 52-55, and 57-73 are in proper condition for allowance, and respectfully request that the Examiner pass this case to issuance. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No additional fee is believed to be due in connection with this response. If, however, any additional fees are required, you are hereby authorized to charge any and all such fees to Deposit Account No. 20-0778.

Respectfully submitted,



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